GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Higher Education - Regularization of service of Sri Y.K.Satyanarayana Murthy, Un-aided Lecturer in Political Science, SKBR College, Amalapuram, East Godavari District in compliance with the orders dated.12.06.2018 of Hon'ble High Court of Andhra Pradesh in W.P.No.5094/2001 – Orders – Issued.

HIGHER EDUCATION [C.E.A2] DEPARTMENT

G.O.MS.No. 18 **Dated: 15-04-2021.**

Read the following:-

1. Orders dated.12.06.2018 of Hon'ble High Court of A.P in W.P.No 5094 of 2001.
2. Contempt Case No.3104 of 2018 filed in W.P.No.5094 of 2001 before Hon'ble High Court of A.P. Amaravati.
3. Writ Appeal No.426 of 2019 filed in W.P.No.5094 of 2001 before Hon'ble High Court of A.P. Amaravati.
4. Orders dated:08.02.2021 of the Hon'ble Supreme Court in SLP(C). Diary.No.11725 of 2020.

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ORDER:

Sri Y.K.Satyanarayana Murthy was appointed as Part Time Lecturer in Political Science on adhoc basis with a consolidated pay from 26.08.1993 by the Management of SKBR College, Amalapuram, East Godavari District in clear violation of Government instructions issued in Memo.No.1458/CE.I-2/91-1, dated:11.07.1991 in which Government instructed the Managements of Private Aided Colleges not to engage any fresh Part timers and the services of those who worked as Part Time Lecturers during 1989-90 & 1990-91 should be utilized by paying extra remuneration and without following the selection procedure prescribed in terms of G.O.Ms.No.12 Education, dated: 10.01.1992. Sri Y.K.Satyanarayana Murthy, Part Time Lecturer in Political Science, S.K.B.R. College, Amalapuram filed W.P.No.5094 of 2001 for declaring the action of the Respondents in not regularizing his services as Lecturer in Political Science Department in the SKBR College, Amalapuram, with consequential direction to the respondents to appoint him as a Lecturer in the Department of Political Science in the College.

2. The Hon'ble High Court of Andhra Pradesh, in W.P.No.5094 of 2001, passed orders on 12.06.2018 as follows:

> "The Petitioner is working as a Lecturer in Political Science Department from 26.08.1993 on adhoc/hourly basis and the similarly situated persons were regularized as Lecturers in the aided vacancies by relaxing the prescribed conditions for appointment on regular basis as Lecturers in Political Science as was done in case of other persons vide G.O.Rt.No.160, Higher Education, dated; 16.02.2001,

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G.O.Rt.No.30 Higher Education, dated: 19.01.2002 and G.O.Rt.No.162, Higher Education, dated: 02.03.2002, the similar benefit of regularization is not extended to the petitioner, which amounts to discrimination. Hence, the Respondents are directed to consider the case of the Petitioner for regularization of his services as Lecturer in Political Science Department in the first respondent college as he has put in nearly 24 years of service and now aged about 55 years. At least now his services can be utilized as Lecturer in Political Science Department in the first Respondent College. The Respondents are directed to complete the exercise within a period of two months from the date of receipt of copy of the order and pay the monetary benefit to the petitioner as per his eligibility."

3. Later, the petitioner filed a contempt case No.3104 of 2018 for non compliance of the orders dated:12.06.2018 of Hon'ble High Court of A.P, in W.P.No.5094 of 2001.

4. Aggrieved by the order dated:12.06.2018 of the Hon'ble High Court of Andhra Pradesh in W.P.No.5094 of 2001, the Department has filed Writ Appeal No.426 of 2019 before the Hon'ble High Court on the following grounds:

(i) That Sri Y.K.Satyanarayana Murthy was appointed by the Management of SKBR College, Amalapuram as Part Time Lecturer with a consolidated salary per hour in clear violation of Government instructions issued in Memo.No.1458/CE.II-1/91-1, dated: 11.03.1991 wherein Government instructed not to engage any fresh Part timers and the services of Part Time Lecturers who worked as Part Time Lecturers during 1989-90 & 1990-91 should be utilized by paying extra remuneration.

(ii) That the Petitioner was appointed as Part time Lecturer with a consolidated salary per hour without obtaining any permission from the Competent Authority and without following the selection procedure which ought to have been required for absorption into aided posts in terms of G.O.Ms.No.12 Education, dated: 10.01.1992 during 1993.

(iii) that the request of Petitioner was rejected vide DCE's Procs.Rc.No.321/PC.I-3/98, dated: 03.03.1998 as he did not fulfill the conditions enlisted in G.O.Ms.No.328 Education, dated: 15.10.1997 by which Government formulated a scheme for regularization of Part time Lecturers prescribing guidelines therein and subsequently, the scheme was annulled vide G.O.Ms.No.283 Education, dated: 03.11.1999 and in absence of any statutory provision it can not be possible to regularize the services of the Petitioner.

(iv) that after promulgation of Act 2 of 1994, absorption of the persons working against un aided posts in aided posts is not permissible.

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(v) While granting relief the Hon'ble High Court relied upon the Government Orders issued in G.O.Rt.No.160, Education, dated:16.02.2001, G.O.Rt.No.30, Education, dated: 09.01.2002 & G.O.Rt.No.162, Education, dated: 02.03.2002 in which the Government issued orders absorbing certain Un aided/Adhoc Lecturers into Grant in aid posts in relaxation of selection procedure prescribed in G.O.Ms.No.12 Education, dated: 10.01.1992. the Petitioner for all practicall purposes having been appointed as Part time Lecturer on consolidated pay against post, can not claim parity to that of Un aided Lecturers in whose favour of the Government relaxed selection procedure.

(vi) that the Petitioner being aged about 57 years (as his date of birth being 19.12.1962) is not entitled for regularization as per the observations of Hon'ble Supreme Court in SLP© No.29369-29373 of 2013, dated: 19.04.2016 and also as per existing Government Order the upper age limit in respect of SC/ST is 45 years.

5. However, the Writ Appeal No.426 of 2019 was dismissed on 10.02.2020 observing that the reasons as stated by the Appellants seeking condonation of the delay deserves no consideration.

6. Aggrieved by the impugned final judgment and the orders dated: 12.06.2018 in W.P.No.5094 / 2001 passed by Hon'ble High Court of T.S & A.P the Department filed Special Leave Petition (C) No.11725 of 2020 before the Hon'ble Supreme Court of India with a prayer to set aside the said order on the following grounds:

(i) That Petitioner in WP No.5094 of 2001 was engaged by the Management of SKBR College, Amalapuram as Part time Lecturer with a consolidated salary per hour in clear violation of Government instructions issued in Memo.No.1458/CE.II-1/91-1, dated: 11.03.1991 where in Government instructed not to engage any fresh Part timers and the services of Part time Lecturers who worked as Part time Lecturers during 1989-90 & 1990-91 should be utilized by paying extra remuneration.

(ii) that the Petitioner in WP was engaged by the Management of SKBR College, Amalapuram as Part Time Lecturer with a consolidated salary per hour without obtaining any permission from the Competent Authority and without following the selection procedure which ought to have been required for absorption into aided posts in terms of G.O.Ms.No. 119 Education, dated: 22.03.1991 and G.O.Ms.No.12 Education, dated: 10.01.1992 during the year 1993. Because the Petitioner in WP is appointed on with a consolidated pay, he is not entitled for Grant in aid.

(iii) that the request of the Petitioner in WP herein was rejected vide DCE's Procs.Rc.No.321/PC.I-3/98, dated: 03.03.1998 as he did not fulfill the conditions enlisted in G.O.Ms.No.328 Education, dated: 15.10.1997 by which Government formulated a scheme for regularization of Part time Lecturers prescribing guidelines therein.

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(iv) Government vide issued G.O.Ms.No.35 Education Department, dated: 20.07.2006 imposed ban on recruitment of Lecturers in aided colleges in the State of Andhra Pradesh, keeping in view drastic fall in admissions in aided colleges which resulted in inadequate workload resulting in redeployment of several surplus Lecturers to needy Government Degree Colleges. Therefore, any absorption of Lecturers in the aided posts is violative of G.O.Ms.No.35, Education, dated: 27.03.2006 as the same is amount to recruitment.

(v) that the Private Management were/are permitted to start colleges under specific condition that they will never be sanctioned Grant in aid. It itself adequately speaks that the Managements of Private Educational Institutions do not have any right to claim for Grant in aid from Government and therefore, the candidates employed by the Managements of colleges also do not have any right for Grant in aid and can not compel the Government for Grant in aid because Grant in aid to the Private Educational Institutions is not statutory under section 46 of A.P.Education Act 1982.

(vi) According to Section 3(b) of Act 22 of 1988, no Private Educational Institutions other than a college which has been established after 01.09.1985 and no private college which has been established after 01.03.1985 shall be entitled to receive any Grant in aid. The said provision is equally applicable to Un aided Sections/Courses started after 01.03.1985 and also the employees appointed after 01.03.1985 against such sections. In the case on hand, the Petitioner was engaged as Part time Lecturer on 26.08.1993 i.e. after 01.03.1985, can not be considered for Grant in aid in view of Section 3(b) of Act 22 of 1988.

(vii) that the employees of colleges run by Private Managements can not claim Grant in aid as a matter of right in terms of Section 46 of A.P.Education Act 1982 which was confirmed by the Hon'ble Supreme Court of India in a case of State of Assam Vs Ajit Kumar Sharma following the Judgement, the Division Bench of Hon'ble High Court of AP. in WP No.8697 of 2005, dated: 07.11.2005 which held that no Private Educational Institutions or its employee has legal right to compel financial assistance by the State. It is rightly observed by the Hon'ble Courts the managements do not claim financial assistance/Grant in aid as a matter of right.

(viii) As per Rule 7(2)(4) of A.P.Educational Institutions (Establishment, Recognition, Administration and control of Institutions of Higher Education) Rules, 1987 vide G.O.Ms.No. 29 Education, dated: 05.02.1987, payment of salaries to un aided staff is to be paid by the Management.

(ix) After promulgation of Act 2 of 1994, absorption of the persons working against un aided posts, into aided posts is not permissible.

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(x) The Hon'ble High Court while delivering Judgement on 12.06.2018 relied upon the Government Orders issued in G.O.Rt.No.160 Education, dated: 16.02.2001, G.O.Rt.No.30 Education, dated: 09.01.2002 & G.O.Rt.No.162 Education, dated: 02.03.2002 in which the Government issued orders absorbing certain Un aided/Adhoc Lecturers into Grant in aid posts in relaxation of selection procedure prescribed in G.O.Ms.No.12 Education, dated:10.01.1992. Whereas the Petitioner in WP here for all practical purposes who was engaged by the Management as Part time Lecturer on consolidated pay without any selection procedure prescribed, can not claim parity to that of Un aided Lecturers in whose favour the Government relaxed selection procedure.

(xi) Though the Petitioner in W.P. may have required qualification of M.A. when his services were taken by the Management of SKBR College, Amalapuram, by the time the aided vacancy arose in the college and by the time the college sent proposal in his favour, NET/SLET/Ph.D. were essential qualifications in terms of G.O.Ms.No.208 Education, dated: 29.06.1999 for recruitment to the posts of Lecturer in the Aided posts. The College sent proposal on 16.12.2003 i.e. after issuance of G.O.Ms.No.208 Education, dated: 29.06.1999 and as such, the Petitioner in WP is not entitled for absorption of his services into Grant in aid even on the basis of Educational qualifications also.

(xii) that the Petitioner here in completed 58 years (as his date of birth being 19.12.1962) is not entitled for regularization as per the observations of Hon'ble Supreme Court in SLP© No.29369-29373 of 2013, dated: 19.04.2016 and also as per existing Government Order the upper age limit in respect of SC/ST is 45 years.

7. However, the Hon'ble Supreme Court of India on 08.02.2021 dismissed the SLP (C) No. 11725 of 2020 and ordered as follows:

" …As there is delay of 625 days in filing the Special Leave Petition and the explanation offered in support of the prayer for condonation is far from being satisfactory, we refuse to condone delay. Consequently, the SLP stands dismissed on the ground of delay."

8. Contempt proceedings are in force against Special Chief Secretary to Government, Higher Education Department and, Special Commissioner of Collegiate Education, Andhra Pradesh, Vijayawada before the Hon'ble High Court Division Bench in contempt case No.3104 of 2018 for non compliance of the orders dated:12.06.2018 of Hon'ble High Court of A.P. in W.P.No.5094 of 2001. The Contempt Case No.3104 of 2018 was posted on 26.03.2021 for compliance. The case is again posted on 16.04.2021 for compliance/for personal appearance of the respondents.

9. As the Writ Appeal No.426 of 2019 filed before Hon'ble High Court of A.P. and also Special Leave Petition (C) No.11725 of 2020 filed before the Hon'ble Supreme Court of India were dismissed on the grounds of delay, Government after careful examination of the matter in consultation with

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advisory departments the Government hereby accord permission to the Special Commissioner of Collegiate Education of Andhra Pradesh to implement the orders of the Hon'ble High Court of A.P, dated.12.06.2018 in W.P.No.5094 of 2001 for regularizing the services of Sri Y.K.Satyanarayana Murthy, Part Time Lecturer in Political Science, SKBR College, Amalapuram, East Godavari District duly invoking Memo.No.573/225/A3/PC.III/97, Finance Department, dated.01.09.1997 i.e., with prospective effect from the date of issue of orders by competent appointing authority, subject to condition that the said vacancy is clear, regular and continued from time to time till date.

10. This order applies for the above mentioned candidate only and shall not be taken as a precedent, either now or in the future.

11. The Special Commissioner of Collegiate Education, A.P, Vijayawada shall take further action accordingly.

12. This order issues with the concurrence of the Finance Department, vide their U.O.No.HROPDPP/39/2021, Computer No.1376824, dated:15.04.2021, and advise of the Law Dept. vide e-file computer No. 1375184.

(BY ORDER AND IN THE NAME OF THE GOVERNER OF ANDHRA PRADESH)

SATISH CHANDRA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Special Commissioner of Collegiate Education,
Andhra Pradesh, Vijayawada.
The individual (through the Spl.CCE, A.P. Vijayawada.)

Copy to:

The Accountant General, A.P. Hyderabad/ Vijayawada.
The Director of Treasuries and Accounts, A.P, Vijayawada,
The Pay and Accounts Officer, A.P, Vijayawada.
The P.S to Secretary to Chief Minister.
The Addl.P.S to Minister [Education].
The P.S to Chief Secretary .
The P.S to Spl.C.S to Higher Education Department,
The Advocate on Records, A.P, Supreme Court of India, New Delhi.
The G.P for Higher Education, High Court of A.P. Amaravati.
Finance (FMU-THE) Department
Finance (HR – Plg.& Policy) Dept.
Law Department,
Sf/Sc.

// FORWARDED :: BY ORDER//

SECTION OFFICER